



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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### BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, Associate Planner

**Date:** December 26, 2014

**Re:** Case ZB 2014-17 (SE & V) | Roger L. Hill | 1065 E. King Street

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#### REQUEST:

**Case ZB 2014-17 (SE & V)...1065 E. King Street.** A request for a special exception from the City of Franklin Zoning Ordinance, Article 7, Chapter 3 to allow an accessory dwelling, and a developmental standards variance from Article 7, Chapter 3 to allow the accessory dwelling to be located on the ground floor of an accessory building, in the RSN: Residential, Suburban Neighborhood zoning district.

#### PURPOSE OF STANDARD:

The “RSN”, Residential: Suburban Neighborhood zoning district is intended to ensure the continued viability of suburban-style lots in existence on the effective date of this Ordinance. This district should only be used to maintain established setbacks and standards in suburban neighborhoods.

#### CONSIDERATIONS:

##### Current Use

1. The subject property of 1065 E. King Street has an existing single-family residential home, with detached two-car garage.

##### Proposed Use

2. Petitioner is proposing to demolish the existing garage and construct a new, single story, 44’ x 36’ pole building/detached three-bay garage.
3. In the back portion of the proposed 44’x 36’ building, the petitioner is proposing a 12’ x 36’ accessory dwelling unit (see attached building plans). The dwelling unit would have one bedroom, a full bathroom, full kitchen, and a great room.

##### Accessory Dwellings/Special Exception

4. Accessory dwelling units are listed as a special exception in the following zoning districts: RSN (Residential: Suburban Neighborhood), RS-1 (Residential: Suburban One), RS-2 (Residential: Suburban Two), RS-3 (Residential: Suburban Three), and RTN (Residential: Traditional Neighborhood).
5. Accessory dwelling units are a permitted use in the following zoning districts: RR (Residential: Rural), RT-1 (Residential: Traditional One), RT-2 (Residential: Traditional Two), and RT-3 (Residential: Traditional Three).
6. Article 13.2 defines Dwelling, Accessory as “A separate and complete secondary dwelling unit established in conjunction with and clearly subordinate to another dwelling that which serves as the primary use and/or structure on the property.”
7. Article 7.3 of the Zoning Ordinance limits accessory dwellings to 1,000 square feet and under.
8. The size of the proposed accessory dwelling is 456 square feet.

### **Developmental Standards Variance**

9. Article 7.3 of the Zoning Ordinance requires accessory dwellings to be (a) attached to, and designed and constructed as part of the primary structure, or (b) located above a detached garage or workshop.
10. A variance is required, as the petitioner is proposing the accessory dwelling be located on the ground floor of a detached garage.

### **Parking Standards**

11. According to Article 7.10 of the Zoning Ordinance, Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.
12. According to Article 7.10 of the Zoning Ordinance, a minimum of 2 off-street parking spaces are required for each dwelling unit.
13. All required parking spaces must be designed to provide direct access for vehicles. In no case may areas which do not have direct access be considered a parking space meeting the requirements of this Ordinance (example: a residential driveway shall not be considered a parking space meeting the requirements of this Chapter if a parked vehicle in the driveway prevents direct access to a required parking space in a garage or carport).
14. A minimum of four (4) off-street parking spaces are required for the main residence and the proposed accessory dwelling. Two dwelling units = 4 spaces required.
15. The proposed detached garage will provide three (3) parking spaces, while a u-shaped/semi-circle driveway in front of the house provides additional parking spaces. The parking requirements have been met.

### **Comprehensive Plan**

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Large-Lot Suburban Residential. "Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in small-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."

### **Zoning Ordinance**

17. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
18. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.

19. According to Article 11.4: Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated (consistent with Section 2.5(L)).
20. According to Article 11.4: A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception.
21. The surrounding zoning and land uses are as follows:

**Surrounding Zoning:**

North: RSN, Residential, Suburban Neighborhood  
South: RSN, Residential, Suburban Neighborhood  
East: RSN, Residential, Suburban Neighborhood  
West: RSN, Residential, Suburban Neighborhood

**Surrounding Land Use:**

North: Residential (Single-family)  
South: Residential (Single-family)  
East: Residential (Single-family)  
West: Residential (Single-family)

**CRITERIA FOR DECISIONS:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

**DECISION CRITERIA – SPECIAL EXCEPTION**

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff Finding:**

The approval of the special exception will not be injurious to the public health, safety, or general welfare of the community, as there will be sufficient off-street parking available and the proposed dwelling would be less than 500 sq. ft. with only one bedroom. Furthermore, due to the proposed location and orientation of the accessory dwelling, staff finds the proposal will not affect the general welfare in any way.

- 2. Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.*

**Staff Finding:**

The proposal will meet the development standards for parking, setbacks, and limitation on size for accessory dwellings; however, a developmental standards variance will be required to allow the dwelling to be located on the ground floor of a detached garage.

- 3. Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.*

**Staff Finding:**

The requested use is listed as a special exception under the RSN zoning district regulations and the property is surrounded by other residential properties and uses.

- 4. Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.*

**Staff Finding:**

The granting of the special exception does not interfere with the Comprehensive Plan as it states: “also encouraged is the occasional incorporation of accessory residences.”

**Please Note:** The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

### **STAFF RECOMMENDATION – SPECIAL EXCEPTION**

Based on the written findings above, staff recommends **approval with the following conditions:**

- a. Improvement Location Permit shall be obtained prior to construction of the proposed accessory dwelling and detached garage structure.
- b. The accessory dwelling shall be constructed as shown on the building plans submitted with this application.

### **DECISION CRITERIA – DEVELOPMENTAL STANDARDS VARIANCE**

1. *General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

#### **Staff Finding:**

The approval of the variance will not be injurious to the public health, safety, morals or general welfare of the community, as an accessory dwelling on the ground floor of the proposed detached garage will not affect the general welfare any more, than if it were constructed above the garage on a second level.

2. *Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.*

#### **Staff Finding:**

The use and value of the adjacent properties will not be affected in a substantially adverse manner, as a single-story detached garage structure, with accessory dwelling, would likely have lesser visual impact on neighboring properties than a two-story detached structure.

3. *Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.*

#### **Staff Finding:**

The strict application of the ordinance will result in a practical difficulty. The strict application of the ordinance would prevent the petitioners from constructing a practical accessory dwelling unit of a rational-size in the back of a detached garage. Requiring the accessory dwelling be located above the garage would mean a larger and taller structure, and would create issues for the petitioners in making the dwelling unit accessible to persons of all ages and physical capabilities.

**Please Note:** The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

### **STAFF RECOMMENDATION – DEVELOPMENTAL STANDARDS VARIANCE**

Based on the written findings above, staff recommends **approval with the following condition:**

- a. The accessory dwelling shall be constructed as shown on the building plans submitted with this application.